



**Issue Date: 23 April 2019**

**CASE NO.: 2015-STA-26**

**IN THE MATTER OF**

**DOUGLAS FONTENOT,**  
**Complainant**

**v.**

**SHELL ENERGY RESOURCES,**  
**Respondent**

**ORDER OF DISMISSAL**

This proceeding arises under the employee protective provisions of the Surface Transportation Assistance Act (STAA)<sup>1</sup> and the regulations promulgated thereunder.<sup>2</sup> The Secretary of Labor is empowered to investigate and determine “whistleblower” complaints filed by employees of commercial motor carriers who are allegedly discharged or otherwise discriminated against with regard to their terms and conditions of employment because the employee refused to operate a vehicle when such operation would violate a regulation, standard, or order of the United States related to commercial motor vehicles.

Complainant filed his initial complaint with the Occupational Health and Safety Administration (OSHA) on 27 Jun 14, alleging that Respondent discharged him in retaliation for protected activity. OSHA dismissed the claim as failing to establish any protected activity under the Act. Complainant filed his objection and request for a de novo hearing.

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<sup>1</sup> P.L. 103-272 at 49 U.S.C. § 31105.

<sup>2</sup> C.F.R. Part 1978.

I conducted an initial scheduling conference call and established a schedule for initial pleadings and motion practice. Eventually, the case was set to be heard on 21 Mar 16. However, the parties requested multiple continuances, noting that they preferred to resolve a related matter in state court before completing litigation of this case. On 17 Apr 19 Complainant, through his counsel, explained that the state matter was not set for trial until August 2019. He further noted that attempting to obtain witnesses for both the state trial and this proceeding was prohibitively expensive. Consequently, Complainant stated that he would no longer prosecute this case and requested that his complaint be dismissed. Accordingly, his motion to withdraw the objections to the OSHA findings is granted. Those findings dismissing the complaint are reinstated and will become the final order of the Secretary.<sup>3</sup>

**ORDERED** this 23<sup>rd</sup> day of April, 2019 at Covington, Louisiana.

**PATRICK M. ROSENOW**  
**Administrative Law Judge**

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<sup>3</sup> 29 C.F.R. § 1978.111(c).